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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,118	08/25/2004	Donald R. Moody	018300.001719	5117

24239 7590 11/23/2007  
MOORE & VAN ALLEN PLLC  
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Research Triangle Park, NC 27709

EXAMINER
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DREIDAME, HUNTER M

ART UNIT	PAPER NUMBER
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3633

MAIL DATE	DELIVERY MODE
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11/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/711,118	MOODY, DONALD R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hunter M. Dreidame	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,7 and 11-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,6 and 8-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/10/2004, 6/6/2007</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election with traverse of the election restriction and election of species of the Office Action mailed 04 June 2007 in the reply filed on 05 September 2007 is acknowledged.

The traversal of the election restriction is on the ground(s) that the search for the claims of the three inventions will all be done concurrently. This is not found persuasive because the inventions are all found in different classifications, as indicated in the Requirement for Restriction: Invention I is classified in class 52, subclass 733.3; Invention II is classified in class 72, subclass 31.13; Invention III is classified in class 29, subclass 897.32.

The traversal of the election of species is on the ground(s) that claim 1 is generic to claims 1-20. This is not found persuasive because the two species are patentably distinct from one another as shown in the election of species requirement. Species I contains only perpendicularly extending tabs, while Species II has perpendicular and parallel tabs, resulting in a difference of connection to the wall components.

The requirement is still deemed proper and is therefore made FINAL.

Applicant has elected Invention I and Species I, reading on claims 1, 3, 5, 6, 8, 9, and 10.

***Information Disclosure Statement***

The information disclosure statements (IDSs) submitted on 10 September 2004 and 06 June 2007 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Claim Objections***

Claim 9 is objected to because of the following informalities:

Line 2 should be changed from "a plurality of a plurality of tabs" to --a plurality of tabs--.

Appropriate correction is required.

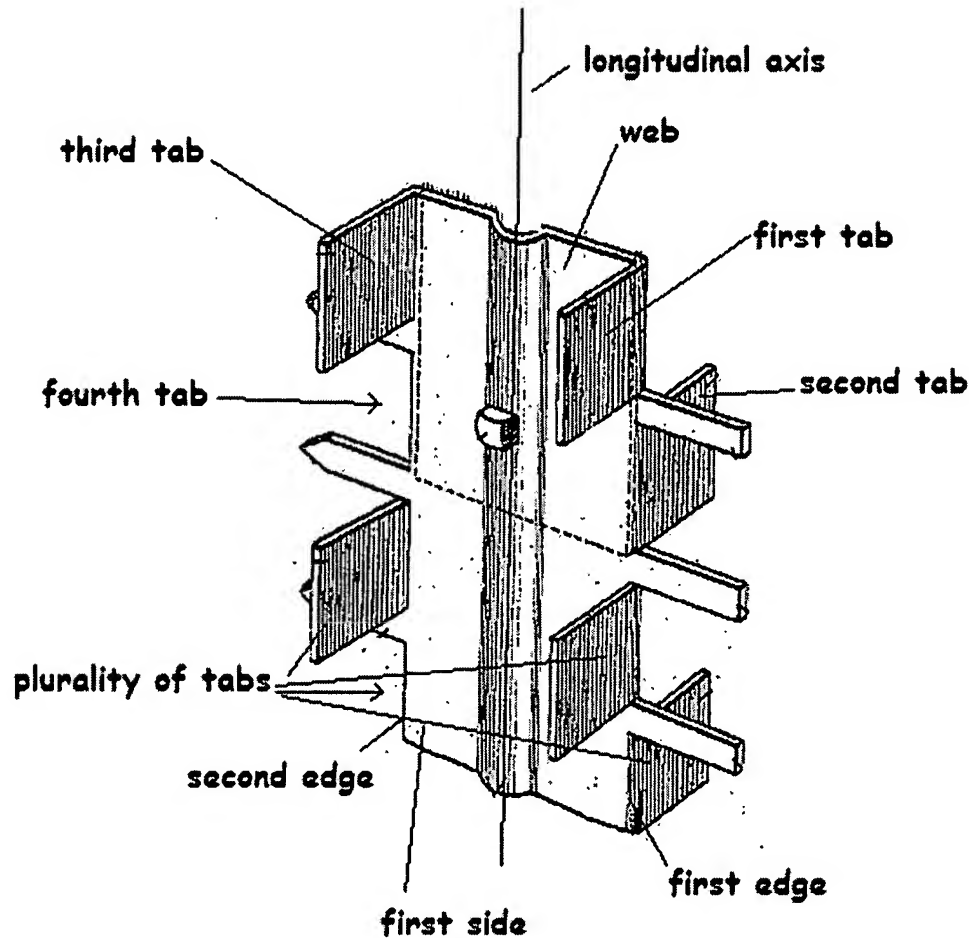
***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 3, 5, 6, 8, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 1,074,242 to Caldwell.**



Annotated figure taken from Caldwell, Fig. 1

**As to claim 1**, Caldwell discloses a thermal framing component (see annotated figure) comprising an elongated planar web (see annotated figure) including a longitudinal axis (see annotated figure), a first edge (see annotated figure) parallel to the longitudinal axis, a second edge (see annotated figure) parallel to the longitudinal axis, a first side (see annotated figure), and a second side (opposite first side); a first tab (see annotated figure) extending from the first edge at approximately a 90 degree

angle from the first side; a second tab (see annotated figure) extending from the first edge at a approximately a 90 degree angle from the second side; and a third tab (see annotated figure) extending from the second edge at approximately a 90 degree angle from the second side.

**As to claim 3**, Caldwell discloses the framing component of claim 1, wherein the second tab is longitudinally adjacent to the first tab (shown in annotated figure).

**As to claim 5**, Caldwell discloses the thermal framing component of claim 3, wherein the third tab is in longitudinal registration with the first tab (shown in annotated figure).

**As to claim 6**, Caldwell discloses the thermal framing component of claim 1, further comprising a fourth tab (see annotated figure) extending from the second edge at approximately a 90 degree angle from the first side.

**As to claim 8**, Caldwell discloses the thermal framing component of claim 1, further comprising a plurality of tabs (see annotated figure) extending from the first edge in alternating position between a 90 degree angle from the first side and a 90 degree angle from the second side.

**As to claim 9**, Caldwell discloses the thermal framing component of claim 8, further comprising a plurality of tabs (see annotated figure) extending from the second edge in alternating position between a 90 degree angle from the first side and a 90 degree angle from the second side.

**As to claim 10**, Caldwell discloses a thermal framing component (see annotated figure) comprising an elongated planar web (see annotated figure) including a

longitudinal axis (see annotated figure), a first edge (see annotated figure) parallel to the longitudinal axis, a second edge (see annotated figure) parallel to the longitudinal axis, a first side (see annotated figure), and a second side (opposite first side); a first tab (see annotated figure) extending from the first edge at approximately a 90 degree angle from the first side; a second tab (see annotated figure) extending from the first edge at approximately a 90 degree angle from the second side; and a third tab (see annotated figure) extending from the second edge at approximately a 90 degree angle from the second side; and a fourth tab (see annotated figure) extending from the second edge at approximately a 90 degree angle from the first side, wherein the first and third tabs are in longitudinal registration (shown in annotated figure) and the second and fourth tabs are in longitudinal registration (shown in annotated figure).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter M. Dreidame whose telephone number is (571)272-5177. The examiner can normally be reached on Monday - Friday 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571)272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Hunter M. Dreidame, Patent Examiner  
November 19, 2007

Robert Canfield  
Primary Examiner

